

**Letter of Findings: 01-20190112
Indiana Income Tax
For the Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 requires the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual protested that adjustments to his 2015 Indiana individual income tax were incorrect. After review of the information supplied by the Internal Revenue Service and of Individual's documentation, the Department does not agree with Individual's protest. Individual's protest and documentation do not prove the proposed assessment wrong.

ISSUE

I. Individual Income Tax—Amount of Income.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-1](#).

Taxpayer protests the imposition of Indiana individual income tax for the tax year 2015.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") received information from the Internal Revenue Service ("IRS") that Taxpayer had more income reported at the federal level than income was reported to Indiana for the tax year 2015. The Department therefore issued a proposed assessment for additional Indiana income tax, penalty, and interest for 2015. Taxpayer protested the imposition of additional Indiana income tax. Taxpayer requested that the Department make its decision on the protest based on materials sent in with the written protest. Therefore, this Letter of Findings results from a review of the materials in the protest file. Further facts will be supplied as required.

I. Individual Income Tax—Amount of Income.

DISCUSSION

Taxpayer protests the imposition of Indiana income tax for the tax year 2015. The Department based its proposed assessment on information it received from the IRS stating that Taxpayer had a higher amount of income reported at the federal level than was reported to Indiana. Taxpayer states that he resolved the matter with the IRS and that the IRS agreed that he did not owe additional federal taxes. Therefore, Taxpayer argues, no additional Indiana taxes are due. Taxpayer provided documentation in support of his position.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law

contained within this decision shall be entitled to deference.

IC § 6-3-2-1(a) states:

(a) Each taxable year, a tax at the following rate of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person:

(1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4[percent]).

(2) *For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3[percent]).*

(3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23[percent]).

(Emphasis added).

Next, IC § 6-3-1-3.5 defines adjusted gross income as:

When used in this article, the term "adjusted gross income" shall mean the following:

(a) *In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:*

....

(Emphasis added).

[45 IAC 3.1-1-1](#) further describes adjusted gross income:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" is "Adjusted Gross Income" as defined in Internal Revenue Code § 62 modified as follows:

(1) Begin with gross income as defined in section 61 of the Internal Revenue Code.

(2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.

(3) Make all modifications required by [IC 6-3-1-3.5\(a\)](#).

Taxpayer protests that he received a notice of additional federal income tax due for 2015, but that he resolved the matter with the IRS. Specifically, Taxpayer states that the IRS believed that he had additional taxable income when, in fact, the amount at issue was actually a non-taxable rollover of a Roth individual retirement account ("IRA"). Taxpayer states that the IRS accepted his explanation and determined that additional federal tax was not due on the IRA rollover. Taxpayer provided some documentation in support of his position that he did not owe additional federal tax on the IRA rollover.

The Department notes that, while the protest file contains documentation supporting Taxpayer's position that he protested the matter with the IRS, there is no documentation from the IRS confirming that it agreed with Taxpayer's position. The last date on any correspondence from the IRS is April 2, 2018. That document does not state that the IRS agrees with Taxpayer regarding any protest of federal income tax. To the contrary, that document states that the initial amount of additional federal tax calculated by the IRS was still due as of April 2, 2018.

Further, Taxpayer states that he listed the same amount of \$40,051.00 as federal adjusted gross income and on line one of his 2015 Indiana state income tax return. This, Taxpayer argues, establishes that he reported the correct amount to begin with and that the Department's adjustment is incorrect. As part of the protest process, the Department requested from Taxpayer, and Taxpayer supplied, a record of account ("ROA") from the IRS regarding Taxpayer's 2015 income as listed on the IRS' records. The Department notes that the amount of federal adjusted gross income is listed on the ROA is \$76,562.00 and the ROA is dated March 19, 2019. This does not support Taxpayer's argument that \$40,051.00 is the correct amount to have listed on his 2015 Indiana state income tax return.

As provided by IC § 6-3-1-3.5 and [45 IAC 3.1-1-1](#), Indiana adjusted gross income begins with federal adjusted gross income and then is modified with Indiana-specific adjustments. While the ROA does list the amount of \$40,051.00 under the category of "Adjusted Gross Income Per Computer", that figure was arrived at after federal adjustments. Therefore, according to the ROA dated March 19, 2019 and as calculated by the IRS, \$76,562.00 was the starting point for computing Taxpayer's 2015 Indiana adjusted gross income tax.

In conclusion, the documentation supplied does not establish that the IRS accepted Taxpayer's protest of federal adjustments. The ROA does not support Taxpayer's position of the amount of adjusted gross income subject to

Indiana adjusted gross income tax. Taxpayer has not met the burden of proving the proposed assessment wrong, as required by IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is denied.

April 29, 2019

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